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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/006,917	11/08/2001	Joseph D. La Scola	Internet P 2	1484

7590 01/22/2003
Henry T. Brendzel
P.O. Box 574
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EXAMINER

BRANN, DEBORAH M

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 01/22/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/006,917

Applicant(s)

LA SCOLA ET AL.

Examiner

Deborah M. Brann

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4 October 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

This is the second office action for application number 10/006,917, Optical Cable Guide and Support, filed November 8, 2001. Claims 1-13 are pending.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter, which the applicant regards as his invention.

Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3 recites the limitation "said supports" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

- (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or
- (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

Claims 1, 2, 4, 5, 6, 8, 12 and 13 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,170,784 to MacDonald et al.

Regarding claims 1, 2, 4, 12, and 13, MacDonald discloses a cable management device (figure 1) comprising a trough element (54) having a U-shaped cross section (see figure); a trough opening along the long dimension of the trough element; and a support subassembly (52) coupled to the trough element, the trough element attached to an apparatus comprising a rack for the attachment of electronic devices (col. 9, lines 43-45). MacDonald further discloses that the subassembly is adjustable (see figure as well as col. 4, lines 19-20) thereby enabling the trough opening to be an adjustable distance from an apparatus. The support subassembly is capable of being fixedly attached via fasteners (28) to the apparatus (12) in such a way that the trough opening faces the uprights (14, 16) of the apparatus, for example by mounting the support subassembly to the top or bottom of the uprights.

Regarding claims 5, 6, and 8, MacDonald further discloses the trough element having a detent (see A on marked-up copy of figure 1) that is a physical extension of the trough element and associated with the trough opening as well as detents (70) that are coupled to the trough element.

Claims 1, 4, and 9-13 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,300,651 to Saito et al.

Regarding claims 1, 4, 12, and 13, Saito discloses an electric wire protector (figure 7) comprising a trough element (53) having a U-shaped cross section; a trough opening along the long dimension of the trough element; and a support

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subassembly (57) coupled to the trough element, the support subassembly capable of being fixedly attached by screws or other fasteners to the vertical or horizontal rails of an apparatus such as a frame or rack to which equipment or electronic components are attached and in such a way that the trough opening faces the apparatus.

Regarding claims 9-11, Saito discloses the trough element having slots (56) in its sides (54) and bottom (55) enabling the trough element to be bent both in a plane that contains a long axis of the trough element and is perpendicular to the sides of the trough element and in a plane that contains the long axis of the trough element and is perpendicular to the bottom of the trough element thereby making the trough element pliable (col. 1, lines 16-19).

Claims 1-3, 12, and 13 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application Publication No. 2002/0047073 A1 to Deciry et al.

Regarding claims 1-3, 12, and 13, Deciry discloses a suspension bracket (figure 9) comprising a trough element (40) having a U-shaped cross section; a trough opening along the long dimension of the trough element; and a support subassembly (10) coupled to the trough element (see figure), the support subassembly capable of being fixedly attached to an apparatus such as one having threaded rods (30) or rails horizontally spaced so that attachment causes the trough opening to generally face the apparatus. Deciry further discloses a support subassembly that is adjustable (by changing the position of the nuts (32) along the threaded rod) enabling the trough opening to be at an adjustable distance from the apparatus as well as at an adjustable

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angle (by positioning one pair of nuts along its rod so that it is offset from the other pair of nuts).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over MacDonald.

Regarding claims 7 and 9, MacDonald teaches a trough element (54) and associated detent element (A, marked-up copy of figure 1) that may be made out of metal or other material such as plastic (col. 5, lines 18-21 and 23-24) but does not specifically teach the detent element having flexible components or the trough element as being pliable. Flexibility or pliability, however, is a matter of degree. Plastic is capable of being pliable and flexible. Giving the trough element a degree of pliability and making the associated detent with flexible components would have been obvious to one of ordinary skill in the art at the time the invention was made in order that the cable management device would be able to give without breaking if bumped against while a user were connecting the cables to or moving the communications rack to which the cable management device is attached.

Response to Arguments

Applicant's arguments with respect to claims 1-12 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent Nos. 3,321,571 to Lynch, 4,145,853 to Bridwell, and 4,372,511 to Knowles all disclose systems for supporting optical fibers or cables involving trough elements.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Deborah M. Brann whose telephone number is 703-308-3122. The examiner can normally be reached on M-F (8:00 am - 5:30 pm) First Friday off.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie A. Braun can be reached on 703-308-2156. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-3519 for regular communications, 703-872-9326 for formal communications and 703-872-9327 for After Final communications.


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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.


Deborah M. Brann
January 15, 2003


LESLIE A. BRAUN
SUPERVISORY PATENT EXAMINER